

## § 204.10

## 8 CFR Ch. I (1–1–11 Edition)

maintain eligibility for the classification under section 101(a)(27)(K) of the Act.

[57 FR 33861, July 31, 1992, as amended at 58 FR 50836, Sept. 29, 1993; 74 FR 26937, June 5, 2009]

### § 204.10 Petitions by, or for, certain scientists of the Commonwealth of Independent States or the Baltic states.

(a) *General.* A petition to classify an alien under section 203(b)(2) of the Act as a scientist or engineer of the eligible independent states of the former Soviet Union or the Baltic states must be filed on Form I-140, Immigrant Petition for Alien Worker. The petition may be filed by the alien, or anyone in the alien's behalf. USCIS must approve a petition filed on behalf of the alien on or before September 30, 2006, or until 950 petitions have been approved on behalf of eligible scientists, whichever is earliest.

(b) *Definitions.* As used in this section the term:

*Baltic states* mean the sovereign nations of Latvia, Lithuania, and Estonia.

*Eligible independent states and Baltic scientists* means aliens:

(1) Who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(2) Who are scientists or engineers who have expertise in nuclear, chemical, biological, or other high-technology field which is clearly applicable to the design, development, or production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction, or who are working on nuclear, chemical, biological, or other high-technology defense projects, as defined by the Secretary of Homeland Security, that are clearly applicable to the design, development, and production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction.

*Independent states of the former Soviet Union* means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

(c) *Filing requirements*—(1) *Application form and time limits.* A petition to classify an alien under section 203(b)(2)(A) of the Act as a scientist from the eligible independent states of the former Soviet Union or the Baltic states must be filed on Form I-140, Immigrant Petition for Alien Worker. The petition may be filed by the alien, or by anyone on the alien's behalf. Such petition must be properly filed with all initial evidence described in paragraph (e) of this section by September 30, 2006 or before the limit of 950 visas has been reached, whichever is earliest. To clarify that the petition is for a Soviet scientist, the petitioner should clearly print the words “SOVIET SCIENTIST” in Part 2 of Form I-140 and check block “d”, indicating the petition is for a member of the professions holding an advanced degree or an alien of exceptional ability.

(2) [Reserved]

(d) *Priority date.* The priority date of any petition filed for this classification is the date the completed, signed petition (including all initial evidence as defined in paragraph (e) of this section and the correct fee) is properly filed with the USCIS.

(e) *Initial evidence.* The petition must be accompanied by:

(1) Evidence that the alien is a national of one of the independent states of the former Soviet Union or one of the Baltic States as defined in paragraph (b) of this section. Such evidence may include, but is not limited to, identifying page(s) from a passport issued by the former Soviet Union, or by one of the independent or Baltic states; and

(2) A letter from the Department of State, Bureau of Nonproliferation that verifies that the alien possesses expertise in nuclear, chemical, biological, or other high-technology field or who has prior or current work experience in high-technology defense projects which are clearly applicable to the design, development, or production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction and endorses the applicant as having exceptional ability in one or more of these fields. Such endorsement shall establish that the

alien possesses exceptional ability in the relevant field.

(f) *No offer of employment required.* Neither an offer of employment nor a labor certification is required for this classification.

(g) *Consultation with other United States Government agencies.* USCIS may consult with other United States Government agencies, such as the Departments of Defense and Energy or other relevant agencies with expertise in nuclear, chemical, biological, or other high-technology defense projects. USCIS may, in its discretion, accept a favorable report from such agencies as evidence in addition to the documentation prescribed under paragraph (e) of this section.

(h) *Aliens previously granted permanent residence.* No alien previously granted lawful permanent residence may request or be granted classification or any benefits under this provision.

(i) *Decision—(1) Approval.* If the petition is approved and the beneficiary is outside the United States the applicant will be notified of the decision and the petition will be forwarded to the National Visa Center. If the beneficiary is in the United States and seeks to apply for adjustment of status, the petition will be retained by USCIS.

(2) *Denial.* If the petition is denied, the petitioner will be advised of the decision and of the right to appeal in accordance with 8 CFR part 103.

(j) *Rejection.* Petitions filed under this provision on or after September 30, 2006 or after the limit of 950 visas has been reached will be rejected and the fee refunded.

[70 FR 21131, Apr. 25, 2005, as amended at 74 FR 26937, June 5, 2009]

**§ 204.11 Special immigrant status for certain aliens declared dependent on a juvenile court (special immigrant juvenile).**

**(a) Definitions.**

*Eligible for long-term foster care* means that a determination has been made by the juvenile court that family reunification is no longer a viable option. A child who is eligible for long-term foster care will normally be expected to remain in foster care until reaching the age of majority, unless the child is adopted or placed in a guardianship sit-

uation. For the purposes of establishing and maintaining eligibility for classification as a special immigrant juvenile, a child who has been adopted or placed in guardianship situation after having been found dependent upon a juvenile court in the United States will continue to be considered to be eligible for long-term foster care.

*Juvenile court* means a court located in the United States having jurisdiction under State law to make judicial determinations about the custody and care of juveniles.

(b) *Petition for special immigrant juvenile.* An alien may not be classified as a special immigrant juvenile unless the alien is the beneficiary of an approved petition to classify an alien as a special immigrant under section 101(a)(27) of the Act. The petition must be filed on Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant. The alien, or any person acting on the alien's behalf, may file the petition for special immigrant juvenile status. The person filing the petition is not required to be a citizen or lawful permanent resident of the United States.

(c) *Eligibility.* An alien is eligible for classification as a special immigrant under section 101(a)(27)(J) of the Act if the alien:

- (1) Is under twenty-one years of age;
- (2) Is unmarried;

(3) Has been declared dependent upon a juvenile court located in the United States in accordance with state law governing such declarations of dependency, while the alien was in the United States and under the jurisdiction of the court;

(4) Has been deemed eligible by the juvenile court for long-term foster care;

(5) Continues to be dependent upon the juvenile court and eligible for long-term foster care, such declaration, dependency or eligibility not having been vacated, terminated, or otherwise ended; and

(6) Has been the subject of judicial proceedings or administrative proceedings authorized or recognized by the juvenile court in which it has been determined that it would not be in the alien's best interest to be returned to